

Message Text

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INFO OCT-01 AF-08 ARA-06 EUR-12 EA-07 NEA-10 IO-13 ISO-00

EB-07 STR-04 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00

FRB-03 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05

PA-01 AID-05 CIEP-01 SS-15 ITC-01 USIA-06 PRS-01

SP-02 FEAE-00 OMB-01 /136 R

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APPROVED BY EB/OT/TA:DJ DUNFORD

EUR/RPE:RBRESLER

EB/OT/GCP:RLANDERS

STR:JGREENWALD

COMMERCE:ELESIE

TREASURY:LWIDMAN (SUBS)

IMF:TCROSS (SUBS)

EA/ANP:HNELSON

NEA/EGY:CKENNEDY

AF/S:AEATON

EA/J:DSMITH

TREASURY:JRAY

ARA/ECP:JEO'MAHONY

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E.O. 11652:N/A

TAGS: GATT, ETRD, IT, SF

SUBJECT: GATT REVIEW OF IMPORT/PRIOR DEPOSIT SCHEMES OF
SOUTH AFRICA AND ITALY

1. NEXT SESSION OF GATT COUNCIL, SCHEDULED FOR SEPTEMBER
17, WILL CONSIDER GATT REVIEW OF FOREIGN EXCHANGE DEPOSIT
SCHEME OF ITALY AND IMPORT DEPOSIT SCHEME OF SOUTH AFRICA.
PURPOSE THIS MESSAGE IS TO IMPRESS ON EC, ITALY AND
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SOUTH AFRICA THE IMPORTANCE U.S. ATTACHES TO (A) REFERRAL
OF ITALIAN AND SA MEASURES TO BOP COMMITTEE FOR REVIEW
AND SEEK AGREEMENT FOR SUCH REVIEW AND (B) SEEK SUPPORT
FOR U.S. POSITION FROM OTHER ACTION ADDRESSEE GOVERNMENTS.

2. IMPORTANCE OF BOP COMMITTEE REVIEW.

U.S. SUPPORT FOR BOP COMMITTEE REVIEW IS PART OF LARGER

EFFORT TO IMPROVE GATT HANDLING OF PRIOR DEPOSITS, SURCHARGES AND OTHER SUCH MEASURES TAKEN FOR BOP REASONS. THE U.S. HAS TABLED A PROPOSAL IN THE GATT CONSULTATIVE GROUP OF 18 (G-18 WAS SET UP IN JULY 1975 BY GATT COUNCIL TO CONSIDER POSSIBLE IMPROVEMENTS IN GATT OPERATIONS) TO IMPROVE THE GATT RULES AND PROCEDURES GOVERNING SUCH MEASURES. U.S. PROPOSAL IS BASED ON TWO-PRONGED APPROACH TO (1) REVISE TERMS OF REFERENCE OF BOP COMMITTEE TO CLARIFY ITS RESPONSIBILITY TO REVIEW ALL TRADE ACTIONS TAKEN FOR BALANCE OF PAYMENTS PURPOSES, INCLUDING SURCHARGES AND IMPORT DEPOSIT SCHEMES, AS WELL AS QUOTAS (ONLY TRADE MEASURE EXPLICITLY PERMITTED UNDER GATT ARTICLE XII FOR BALANCE OF PAYMENTS PURPOSES); AND (2) LIMIT, AT LEAST AMONG DEVELOPED COUNTRIES, THE USE OF ANY TRADE MEASURES TAKEN FOR BOP REASONS, EXCEPT IN EXTRAORDINARY CIRCUMSTANCES.

3. WHILE WE ARE PRESSING THESE SYSTEMIC REFORMS, WE ARE ENCOURAGING BOTH LDCS AND DEVELOPED COUNTRIES WHICH TAKE TRADE ACTIONS FOR BOP REASONS TO NOTIFY SUCH ACTIONS TO THE GATT AND TO AGREE TO REVIEW OF ANY SUCH MEASURES BY BOP COMMITTEE.

4. THESE EFFORTS INTENDED TO PARALLEL AND TO CONTINUE EFFORTS IN INTERNATIONAL MONETARY FUND TO CONDITION ACCESS TO FUND RESOURCES ON AGREEMENT NOT TO INTRODUCE NEW, OR INTENSIFY EXISTING, RESTRICTIONS ON IMPORTS FOR BALANCE OF PAYMENTS REASONS.

5. IN LIGHT OF THESE INITIATIVES, WE CONSIDER IT DESIRABLE TO REGULARIZE THE BOP COMMITTEE REVIEW OF BOP TRADE MEASURES. REFERRAL OF ITALIAN AND SOUTH AFRICAN MEASURES SHOULD BE REVIEWED IN THIS LIGHT.

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6. POSSIBLE OBJECTIONS. BOTH SOUTH AFRICA AND ITALY HAVE NOTIFIED THEIR ACTIONS TO THE GATT; HOWEVER, THEY HAVE RESISTED REVIEW BY THE GATT BOP COMMITTEE ON THE GROUNDS THAT PRIOR DEPOSIT SCHEMES ARE NOT COVERED BY ITS TERMS OF REFERENCE AND THAT ANY REVIEW OF SUCH MEASURES SHOULD BE BY AD HOC WORKING PARTIES. WE AGREE THAT TREATMENT OF PRIOR DEPOSIT MEASURES UNDER GATT IS UNCLEAR AS GATT HAS NEVER RULED ON THIS MATTER. HOWEVER, SOME CONTRACTING PARTIES, INCLUDING THE U.S., BELIEVE PRIOR DEPOSIT SCHEMES IMPAIR THE VALUE OF GATT BINDINGS WHICH WOULD APPEAR TO BE A VIOLATION OF GATT ARTICLE II. ITALY HAS ALSO ARGUED THAT ITS SCHEME IS STRICTLY TEMPORARY, BUT TERMINATION DATE OF SCHEME HAS BEEN EXTENDED AN ADDITIONAL 3 MONTHS TO NOVEMBER 3 AND THERE SEEMS TO

BE NO CERTAINTY IT WILL NOT BE EXTENDED FURTHER. IN ANY EVENT, WE BELIEVE THAT PRIOR DEPOSIT SCHEMES ARE INCONSISTENT WITH GATT OBJECTIVES OF LIBERALIZING TRADE AND SHOULD, THEREFORE, BE SUBJECT TO GATT REVIEW. IMPORTANCE OF USING EXPERIENCED, WELL-ESTABLISHED GATT BODY DICTATES THAT REVIEW BE CONDUCTED BY BOP COMMITTEE. MOST RECENT PRECEDENT FOR SUCH REVIEW IS FINLAND'S IMPORT DEPOSIT SCHEME IN 1976 WHICH WAS REVIEWED BY BOP COMMITTEE. IN THE PERIOD 1970-1974, OF THE 10 CASES OF IMPORT DEPOSIT MEASURES NOTIFIED TO THE GATT, SEVEN WERE EXAMINED BY THE GATT BOP COMMITTEE.

7. COUNTRY POSITIONS. AT THE GATT COUNCIL MEETING IN JUNE, THE U.S. PROPOSAL TO HAVE THE BOP COMMITTEE REVIEW THE ITALIAN PRIOR DEPOSIT SCHEME WAS SUPPORTED BY AUSTRALIA, AUSTRIA, CANADA, JAPAN, AND SWITZERLAND. THE LDC'S WERE NOT ACTIVE. WHILE ARGENTINA HAD PREVIOUSLY RESISTED BOP COMMITTEE REVIEW OF LDC TRADE MEASURES, GOA MIGHT BE PURSUADED TO SUPPORT U.S. POSITION ON GROUNDS THAT THIS WOULD PUT ALL COUNTRIES, DCS AND LDCS, ON EQUAL FOOTING. FINLAND MIGHT ALSO BE COUNTED ON FOR SUPPORT IN LIGHT OF RECENT REVIEW OF ITS IMPORT DEPOSIT SCHEME BY BOP COMMITTEE. BRAZIL HAS COOPERATED WITH THE GATT BOP COMMITTEE IN A REVIEW THIS SPRING OF ITS RECENT IMPORT RESTRICTIONS. IT MIGHT BE WILLING TO SUPPORT PROPOSAL THAT OTHER COUNTRIES, BOTH LDCS AND DEVELOPED, FOLLOW ITS EXAMPLE. THE EC HAS NOT BEEN LIMITED OFFICIAL USE

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STRONG SUPPORTER OF U.S. EFFORTS TO IMPROVE REVIEW OF BOP COMMITTEE AND INDEED HAS OPPOSED US IN G-18, BUT THERE ARE INDICATIONS THAT THE EC WILL NOT OPPOSE BOP COMMITTEE REVIEW OF ITALIAN MEASURES (PARA. 6 OF STATE 211631).

8. ACTION REQUESTED. DRAWING ON ABOVE INFO, ACTION POSTS ARE REQUESTED TO APPROACH APPROPRIATE GOVERNMENT OFFICIALS AND EC OFFICIALS TO ENLIST SUPPORT FOR U.S. POSITION AT SEPTEMBER 17 GATT COUNCIL MEETING. PLEASE REPORT FEEDBACK TO DEPARTMENT AND GENEVA ASAP. IF YOU PERCEIVE ANY SERIOUS DISADVANTAGE TO MAKING SUCH AN APPROACH, PLEASE ADVISE AT ONCE BY IMMEDIATE CABLE.

9. FOR EC BRUSSELS, SUGGEST PHAN VAN PHI BE APPROACHED AND REMINDED OF STATEMENT HE MADE TO WOLFF (STR) THAT EC WOULD BE PREPARED TO ACCEDE TO BOP COMMITTEE REVIEW OF ITALIAN MEASURE. KISSINGER

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